

REMARKS

Claims 1 - 23 remain active in this application. Amendment of claim 1 has been requested. Support for the amendments of the claims is found throughout the application, , particularly at page 12, lines 30 - 31 and in Figure 2 and the description thereof on pages 15 - 18 of the specification as originally filed. No new matter has been introduced into the application.

Claims 1, 4, 6 - 11, 14 - 18, 20 and 22 have been rejected under 35 U.S.C. §102 as being anticipated by McAlear. Claims 2 and 23 have been rejected under 35 U.S.C. §103 as being unpatentable over McAlear. Claims 3, 5, 19 and 21 have been rejected under 35 U.S.C. §103 as being unpatentable over McAlear in view of Ortel. Claims 12 - 13 have been rejected under 35 U.S.C. §103 as being unpatentable over McAlear in view of Ortel and Cheng. The grounds of rejection are all respectfully traversed.

It is respectfully submitted that McAlear has very little in common with the present invention other than being concerned with upstream signalling in a CATV system. The present invention provides an extremely inexpensive and simple arrangement with wide operating margins for very basic upstream signalling and includes condition detection at respective cable drops, independent but synchronized time bases at both the communication path termination section and at a central facility which need not be synchronized over the cable system, and signalling using a sequence of tones to identify particular cable drops and to identify detected conditions. All of these distinctive and distinguishing features of the invention and which support its meritorious effects are explicitly recited in independent claims 1 and 18. Further, the invention provides for signalling using tone pairs (available from existing telephone chip sets), decoding and

printing using commercially available, low-cost decoders and printers, detection of power outage and signal ingress, identification of cable drops reporting condition detection through coded tone sequences, use of a very low carrier frequency well-separated from other possible upstream signalling bands (to avoid encroaching on the bandwidth thereof) and checking of cable drop identification by counting time slots at the central facility and controlling polling frequency of the cable drops, as recited in respective dependent claims.

McAlear, on the other hand, is concerned with accumulated noise and ingress signals at the central facility during amplification of the upstream signal. To reduce such noise, McAlear provides a hybrid (e.g. analog and digital) amplifier and regenerator which may be inserted at a plurality of locations in the cable system to provide a plurality of stages of amplification and regeneration of upstream signals and which can be controlled from the central facility to minimize noise accumulation over the plural amplification and regeneration stages. The condition detected is misalignment of a HAR in amplitude, frequency or phase which is detected in a HAR upstream from the misaligned HAR based on receipt of an abnormal upstream signal from the misaligned HAR (as distinct from detection in the misaligned HAR itself or any detection at the location of the abnormal condition much less at cable drops, as claimed - see column 16, lines 23 - 52). Synchronization for the control of time slots is controlled from the central facility by downstream signalling through the cable system (see column 15, line 45 to column 16, line 22). The "tones" the Examiner attributes to McAlear are invariant carrier frequencies as parenthetically stated in column 17, line 15, cited by the Examiner and there is no "sequence" thereof, much less coupling of a sequence of

tones to the communication path in a time slot defined by a time base at a "termination section" of the communication path. Further, there appears to be no decoding of the upstream signal but only an incremental correction signal which is repeated until correct alignment is achieved (see column 16, lines 47 - 52 and column 17, lines 45 - 49).

Thus it is clearly seen that McAlear contains virtually none of the features the Examiner attributes to it and virtually nothing in common with the subject matter of the invention, as claimed, and largely contrary to the explicit recitations of the claims. Therefore, the Examiner has clearly failed to make a *prima facie* demonstration of anticipation of any claim in the application. Similarly, McAlear does not provide evidence of a level of ordinary skill in the art which would support a conclusion of obviousness of any claim in the application since McAlear is directed to reduction of noise accumulation during upstream signalling and not to upstream signalling of detected conditions and certainly does not lead to an expectation of success in achieving the meritorious effects of the invention in providing an inexpensive and simple system which is robust with wide operating margins for signalling of detected conditions from cable drops. Therefore the Examiner has not made and cannot make a *prima facie* demonstration of obviousness of any claim based on McAlear taken alone.

Ortel and Cheng do not mitigate any of the above-discussed deficiencies of McAlear to answer the explicit recitations of the claims and the Examiner has not asserted that they do. Ortel is cited only for teaching decoding to provide a digital input to a printer and for dividing the cable system into sectors. Cheng is cited only for controlling polling frequency. Therefore the Examiner has failed to make a *prima facie* demonstration of obviousness based on any combination

of McAlear with Ortel and/or Cheng. Accordingly, it is respectfully submitted that all of the grounds of rejection asserted by the Examiner are clearly in error and untenable. Therefore reconsideration and withdrawal thereof are respectfully requested.

It is also respectfully submitted that entry of the above-requested amendment to claim 1 is clearly in order. It is clear that no new issue is raised by the requested amendment since it is directed to inclusion of a time-base at the central facility which is recited in independent claim 18 as finally rejected. Further, it is respectfully submitted that the finality of the present action is premature since it is axiomatic that an action cannot properly be made final when neither the present action nor the prior action made a *prima facie* demonstration of the propriety of grounds of rejection asserted therein. Therefore withdrawal of the finality of the present action and entry of the above-requested amendments as a matter of right is respectfully requested. In any case, entry of the above-requested amendments is well-justified as clearly placing the application in condition for allowance or, in the alternative as improving form for Appeal by materially reducing and simplifying issues.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension

of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marshall M. Curtis".

Marshall M. Curtis
Reg. No. 33,138

Whitham, Curtis & Christofferson, P. C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

(703) 787-9400
Customer Number: **30743**